

TITLE 16. BOARD OF PODIATRIC MEDICINE

NOTICE IS HEREBY GIVEN that the Board of Podiatric Medicine (hereinafter "board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments only in writing relevant to the action proposed.

Written comments must be received by the board at its office not later than 5:00 p.m. on February 10, 2003.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office no later than 5:00 p.m. on January 27, 2003.

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2470 and 2496 of the Business and Professions Code, and to implement, interpret or make specific Sections 700-704, 2496, and 2529, the board is considering changes to Article 3 of Division 13.9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 2470 authorizes the board to adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations which are necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine.

Business and Professions Code section 2496 authorizes the board to adopt and administer regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) requiring continuing education of those licensees. In addition to the satisfaction of the continuing education requirement, licensees must complete one of several continuing competence pathways identified under section 2496 (a-g) at each license renewal.

1. Rename Article 3 of Division 13.9 of Title 16 of the California Business and Professions Code from Continuing *Education* to Continuing *Competence*.

2. Amend section 1399.669.

Existing regulation defines the continuing education requirements for podiatrists, as well as the timeline for submittal of proof of compliance. Existing language also identifies the consequences for noncompliance, and the options available to individuals who fail to, or are unable to comply.

This proposal would add a separate continuing competence requirement to the regulation, requiring the completion one of the continuing competence pathways identified in Section 2496 of the Business and Professions Code. Proposed amendments incorporate existing statutory continuing competence requirements into regulation, and achieve technical conformity as necessary to reflect these requirements.

3. Amend Section 1399.670

Existing regulation lists the types of scientific medical courses that are approved for continuing medical education credit.

This proposal would include in this list, programs that are approved by a government agency. This would allow the board to approve radiological courses for continuing education credit, and would therefore allow renewal candidates to apply these courses toward the fifty (50) hour continuing medical education requirement.

4. Repeal Section 1399.675

Existing regulation identifies cardiopulmonary resuscitation (CPR) as part of the continuing education requirement, and specifies the time at which certification is to be presented to the board.

This proposal would delete all language pertaining to CPR training as a licensing requirement. This unnecessary regulatory intervention has not been shown to have a positive impact on the level of care provided by licensed doctors of podiatric medicine since it took effect in 1980. A respective finding also led to the repeal of short-lived regulation section 1336.5 (CPR training as a licensing requirement) by the Medical Board of California in 1985.

5. Add Section 1399.675

This proposal would add new regulatory language identifying the criteria for approval of continuing competence courses. Courses meeting the specified criteria will be approved by the board to offer supplemental training in common podiatric and surgical procedures.

6. Amend Section 1399.676

Existing regulation identifies sanctions for noncompliance with the continuing education requirements set forth by this article. The regulation also describes the procedures that the board will follow during annual random audits of doctors of podiatric medicine who have reported compliance with these requirements.

This proposal contains technical amendments, which would make this section consistent with statutory continuing competence requirements and those proposed under this article.

7. Amend Section 1399.678

Existing regulation identifies the criteria that must be met by a licensee who wishes to be exempt from the continuing education and continuing competence requirements set forth by this article.

This proposal would allow the board to grant one (1) temporary continuing competence waiver to a licensee who falls short of the requirements set forth by this article during a license renewal period. However, that licensee must complete one continuing competence pathway (identified under section 2496 of the Business and Professions Code) in addition to the continuing education requirements during the following license renewal period in order to successfully renew his or her license. Because recent legislation has replaced the state oral clinical licensing examination with Part III of the National Board of Podiatric Medical Examiners examination, there is now a reasonable pathway for all licensees to complete in order to maintain continuing competence.

8. Amend Section 1399.679

Existing regulation identifies the procedures that must be followed in order to: 1) restore an inactive license to active status or 2) maintain an inactive license.

This proposal contains technical amendments, which would make this section consistent with statutory continuing competence requirements and those proposed under this article.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: none

Nondiscretionary Costs/Savings to Local Agencies: none

Local Mandate: none

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: none

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

The proposed regulatory amendments establish consistency with current statutory requirements, which require licensed doctors of podiatric medicine to have satisfied a continuing competence requirement in addition to the continuing education requirements currently set forth by this article. These amendments incorporate current statutory requirements into the board's regulations.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses. Regulations pertain only to continuing competence requirements that are already observed by the board under statutory authority.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative considered by it or that

has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments only in writing relevant to the above determinations.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Podiatric Medicine at 1420 Howe Avenue #8, Sacramento, California 95825-3291.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name:	Mischa Matsunami
Address:	1420 Howe Avenue, Suite #8 Sacramento, CA 95825
Telephone No.:	(916) 263-0315
Fax No.:	(916) 263-2651
E-Mail Address:	Mischa_Matsunami@dca.ca.gov

The backup contact person is:

Name:	Jim Rathlesberger
Address:	1420 Howe Avenue, Suite #8 Sacramento, CA 95825
Telephone No.:	(916) 263-2647
Fax No.:	(916) 263-2651

Inquiries concerning the substance of the proposed regulations may be directed to Mischa Matsunami, (916) 263-0315.

Website Access: Materials regarding this proposal can be found at www.dca.ca.gov/bpm/.

BOARD OF PODIATRIC MEDICINE

Specific Language

(1) Rename Article 3 of Division 13.9 of Title 16 of the California Code of Regulations

Article 3. Continuing ~~Education~~ Competence.

(2) Amend section 1399.669 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.669. Continuing ~~Education~~ Competence Required.

(a) Each doctor of podiatric medicine is required to complete 50 hours of approved continuing education, including a minimum of 12 hours in subjects related to the lower extremity muscular skeletal system, and one of the continuing competence pathways specified in Business and Professions Code Section 2496 (a) through (h), during each two (2) year renewal period.

(b) Each doctor of podiatric medicine renewing his or her license under the provisions of Section 2423 of the code may be required to submit proof satisfactory to the board of compliance with the provisions of this article every two (2) years.

(c) Each doctor of podiatric medicine in order to renew his or her license at each renewal period shall report ~~progress towards~~ compliance with the ~~continuing education requirement~~ provisions of this article by signing and returning the declaration contained in the license renewal application.

(d) Any doctor of podiatric medicine who cannot ~~complete a minimum of 50 hours of approved continuing education~~ comply with the provisions of this article during a two (2) year period shall be ineligible for the next renewal of his or her license unless such licensee applies for and obtains a waiver pursuant to Section 1399.678 below.

NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

(3) Amend section 1399.670 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.670. Approved Continuing Education Programs.

Only scientific courses relating directly to patient care under the following categories are approved for continuing medical education credit:

(a) Programs approved by the California Podiatric Medical Association or the American Podiatric Medical Association and their affiliated organizations.

(b) Programs approved for Category I 1 credit of the American Medical Association, the California Medical Association, or their affiliated organizations, and programs approved by the American Osteopathic Association, or the California Osteopathic Association or

their affiliated organizations.

(c) Programs offered by approved colleges or schools of podiatric medicine, medicine and osteopathic medicine.

(d) Programs approved by a government agency.

~~(d)~~(e) Completion of a podiatric residency program or clinical fellowship in a hospital approved under Section 1399.667 shall be credited for 50 hours of approved continuing education.

~~(e)~~(f) Programs offered by other individuals, organizations and institutions approved by the board pursuant to Section 1399.671 below.

NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

(4) Repeal section 1399.675 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

~~1399.675. CPR Training Required.~~

~~(a) As part of the continuing education required by law of each licensee, in addition to the coursework required by these regulations, each doctor of podiatric medicine at the time of license renewal shall certify that he or she possesses a current and valid certificate in basic cardiopulmonary resuscitation (CPR).~~

~~(b) CPR training need not be obtained from a provider approved pursuant to Sections 1399.671 or 1399.672.~~

NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

(5) Add section 1399.675 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.675 Continuing Competence Course

(a) Courses approved by the board pursuant to Section 2496(g) shall be in addition and supplementary to those taken to meet the continuing education requirement.

(b) Such courses shall provide didactic and clinical training that refreshes and updates knowledge and skills in common podiatric medical and surgical procedures.

(c) Such courses shall examine and test each candidate prior to graduation and certify graduation directly to the board.

(d) The application fee for board approval of each course shall be that specified in Section 2499.5 (m) of the Business and Professions Code.

NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

(6) Amend section 1399.676 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.676. Audit and Sanctions for Noncompliance.

(a) Each doctor of podiatric medicine at the time of license renewal shall sign a statement under penalty of perjury that he or she has or has not complied with the ~~continuing education requirements set by the board of this article.~~

(b) The board may audit once each year a random sample of doctors of podiatric medicine who have reported compliance with the ~~continuing education requirements.~~ No doctor of podiatric medicine shall be subject to audit more than once every two (2) years. Those licensees selected for audit shall be required to document their compliance with the ~~continuing education requirements of this article on a form provided by the board.~~

(c) Any doctor of podiatric medicine who is found ~~not to have completed the required number of hours of approved continuing education~~ out of compliance shall be required to document compliance prior to ~~make up any deficiency during the next biennial renewal period.~~ Such licensees shall document to the board the completion of any deficient hours identified by audit. Any doctor of podiatric medicine who fails to make up the deficient hours, in addition to the hours required for the current renewal period, shall be ineligible for renewal of his or her license to practice podiatric medicine until such time as all the required hours of continuing education are completed and documented to the board in addition to the requirement of one of the continuing competence pathways.

(d) It shall constitute unprofessional conduct for any doctor of podiatric medicine to misrepresent compliance with the provisions of this article.

(e) Any doctor of podiatric medicine selected for audit who has been certified as complying with the continuing education requirements of this article by those organizations listed in Section 1399.671, subsections (a), (b), (c) and (d), will not be required to submit documentation or records of continuing education coursework received, but the board may obtain such records directly from the certifying organizations or institutions.

(f) The board requires that each doctor of podiatric medicine retain records for a minimum of four (4) years of all continuing education programs attended which indicate the title of the course or program, the sponsoring organization or individual and the accrediting organization, if any.

NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

(7) Amend section 1399.678 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.678. Waiver of Requirement.

(a) The board in its discretion may exempt permanently or temporarily from the ~~continuing education requirements of this article,~~ any licensee who for reasons of retirement, health, military service, or undue hardship cannot meet those requirements. Applications for waivers shall be submitted on a provided form to the board for its consideration.

(b) Any licensee so exempted by reason of retirement may not routinely engage in the practice of podiatric medicine and his or her podiatric medical practice shall be restricted as follows:

- (1) Any examining, treating and prescribing is limited to 20 patients annually.
- (2) Prescribing only Schedule IV and V controlled substances unless otherwise authorized by the board to prescribe from other schedules; the licensee's Drug Enforcement Administration (DEA) certificate shall reflect those restrictions.
- (3) Irrespective of age, any income derived from the practice of podiatric medicine shall not exceed the net annual income allowed for recipients of social security benefits.

(c) Any licensee who submits an application for waiver which is denied by the board, may be ineligible for renewal of his or her license to practice podiatric medicine under the provisions of Section 1399.676.

(d) Any newly-licensed doctor of podiatric medicine who is licensed for less than six (6) months of the year shall be exempt from the continuing education requirement for that year.

(e) Any licensee granted a temporary waiver may not be granted another temporary waiver at the next license renewal.

NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

(8) Amend section 1399.679 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.679. Inactive License.

(a) Any doctor of podiatric medicine desiring an inactive license pursuant to the provisions of Article 9 (commencing with Section 700) of Chapter 1 of Division 2 of the code or to restore an inactive license to active status shall submit an application to the board on a form provided by it. The applicant need not submit his or her certificate or copy thereof to the board with the application.

(b) "Board" as used in Section 701 of the code means the California Board of Podiatric Medicine.

(c) In order to restore an inactive license to active status, the licensee shall have completed a minimum of fifty (50) hours of approved continuing education within the last two (2) years and meet one of the continuing competence pathways in compliance with this article.

(d) All licensees who are in inactive status shall continue to pay to the board the required biennial renewal fees.

(e) The inactive status of any licensee shall not deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking a certificate or otherwise taking disciplinary action against the licensee on any such ground.

NOTE: Authority cited: Section 2470 and 2496, Business and Professions Code.
Reference: Sections 700-704 and 2529, Business and Professions Code.

BOARD OF PODIATRIC MEDICINE
INITIAL STATEMENT OF REASONS

Hearing Date: February 6, 2003

Subject Matter of Proposed Regulations: Continuing Education

Section(s) Affected:

Division 13.9 of Title 16, Continuing Competence:

Amend Sections 1399.669, 1399.670, 1399.676, 1399.678, and 1399.679
Delete Section 1399.675
Add Section 1399.675

Specific Purpose of each adoption, amendment, or repeal:

Amend Sections 1399.669, 1399.676 and 1399.679

The Board of Podiatric Medicine is proposing amendments to regulation sections 1399.669, 1399.676 and 1399.679 in order to incorporate current statutory continuing competence requirements into regulation, thereby establishing consistency between authorities. As required by Section 2496 of the Business and Professions Code, the board must adopt and administer regulations in accordance with the Administrative Procedure Act, requiring continuing education of its licensees as determined by the board. These amendments would satisfy this requirement by including a continuing competence requirement, by reference to statute, in the board's regulations.

Amend Section 1399.670

The proposed amendment would enable licensees to apply radiological courses toward the fifty (50) hour continuing medical education requirement.

Amend Section 1399.678

The proposed amendment to section 1399.678 allows the board to grant one (1) temporary continuing competence waiver to a licensee who falls short of the requirements set forth by this article during a license renewal period. However, that licensee must complete one continuing competence pathway (identified under section 2496 of the Business and Professions Code) in addition to the continuing education requirements during the following license renewal period in order to successfully renew his or her license.

Repeal Section 1399.675

The purpose for repeal of section 1399.675 is to eliminate cardiopulmonary resuscitation (CPR) training as a licensing requirement

Add Section 1399.675

This proposal would add new regulatory language identifying the criteria for approval of continuing competence courses. The criteria established under this section will ensure that license renewal candidates will have successfully completed courses that provide adequate podiatric medical training that is supplementary to the board's continuing education requirements.

Factual Basis/Rationale:

Amend Sections 1399.669, 1399.676 and 1399.679:

Sections 1399.669, 1399.676 and 1399.679 include language relating to the continuing education of doctors of podiatric medicine. Proposed amendments incorporate existing statutory continuing competence requirements into these regulations, and achieve technical conformity throughout the article as it relates to continuing competence.

In addition, section 2496 of the Business and Professions Code identifies numerous pathways for satisfaction of the continuing competence requirement maintained by the board. This requirement ensures that doctors of podiatric medicine will maintain a level of competence beyond that which is attained through a licensee's participation in continuing medical education courses, therefore improving the quality of podiatric care.

Amend Section 1399.670

The Department of Health Services requires ten (10) hours of radiological courses for all doctors of podiatric medicine who possess or maintain a valid radiography and/or fluoroscopy x-ray supervisor/operator permit. Current language does not allow the board to approve these courses for continuing education credit. The proposed amendment would enable licensees to apply these courses toward the fifty (50) hour continuing medical education requirement.

Amend Section 1399.678

Recent legislation has replaced the state oral clinical licensing examination with Part III of the National Board of Podiatric Medical Examiners examination, and there is now a reasonable pathway for all licensees to complete in order to maintain continuing competence. Therefore, it is now appropriate to state, as proposed under section 1399.678(e), that "any licensee granted a temporary waiver may not be granted another temporary waiver at the next license renewal."

Repeal Section 1399.675:

CPR training as a licensing requirement was an unnecessary regulatory intervention established in 1980, which has not been shown to have a positive impact on the level of care provided by licensed doctors of podiatric medicine. A respective finding also led to the repeal of short-lived regulation section 1336.5 (CPR training as a licensing requirement) by the Medical Board of California in 1985.

Add Section 1399.675:

The proposed regulatory language under section 1399.675 sets standards for the approval of continuing competence courses as defined under section 2496(g) of the Business and Professions Code, and described throughout this regulatory proposal. Courses meeting the specified criteria will be approved by the board to offer supplemental training in common podiatric and surgical procedures.

Underlying Data

None

Business Impact

This regulation will not have a significant adverse economic impact on businesses.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulations would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.